

Austin, Texas

May 29, 1947

TO THE MEMBERS OF THE FIFTIETH LEGISLATURE:

I am vetoing House Bill No. 111 for the reason that the decision by the Supreme Court of Texas in the case of King versus Bruce, et ux, rendered April 23, 1947, makes this enactment unconstitutional.

This bill was drawn by a group of Texas tax attorneys in an attempt to arrive at a valid and constitutional means of overcoming the effect of the holding of the United States Supreme Court in the Herbert and Weiner cases. In those cases, the general effect of the United States Supreme Court's decision was to levy an inheritance tax upon the entire community estate at the death of the first spouse, and then again upon one-half the community estate upon the death of the second spouse. This resulted in one and one-half times taxation.

House Bill No. 111 provides for partition or exchange by written agreement of community partition between husband and wife after the holding of the Court of Civil Appeals in the case of King versus Bruce, et ux, which was a test case.

In this test case Bruce and his wife, domiciled in Texas, went to New York, took funds out of a Texas bank, and in New York converted them into silver dollars. They divided them equally and entered into a written agreement that each should thereafter be the separate property of the spouse. This method of voluntary partition of community property was upheld in the Court of Civil Appeals by the Supreme Court of Texas who reviewed and rendered the case, stating that the action of Mr. and Mrs. Bruce did not effectuate a change in the community character of the money, and of funds of the wife thus secured and later

deposited in a Texas bank in her name, and benefit by her was still subject to garnishment for a judgment debt against the husband.

H. J. R. No. 13 proposes a constitutional amendment providing that the husband and wife may in writing partition between themselves all or any part of their community property. The constitutional amendment is to be submitted to a vote on November 2, 1948.

Since House Bill No. 111 is obviously unconstitutional and, is therefore, being vetoed by me for this reason, the passage of H. J. R. No. 13 by the Legislature is all the more important to the people of Texas.

Respectfully submitted,



Beauford H. Jester

Governor of Texas